

SEPTEMBER, 2021

TAX Bulletin

★ ★ VOLUME - 95 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

Ph: 091-33-2252 1031/34/35/1602/1492

Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Ph: 091-11-24666100

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2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
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5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stake holders and also Crash Courses on GST for Colleges and Universities.

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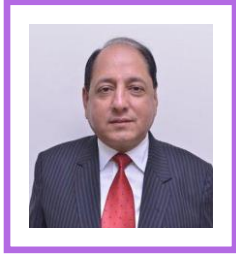
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Chittaranjan Chattopadhyay
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

Greetings from the Tax Research Department!!!

The Department met with **Shri G D Lohani**, Joint Secretary-TRU- I, Central Board of Indirect Taxes and Customs and **Shri K. C. Varshney**, Joint Secretary, Tax Policy & Legislation (TPL-I) Central Board of Direct Taxes for discussions and suggestions on GST and Income Tax.

We have faced the biggest challenge of the decade, the corona virus pandemic and to keep up with the various new changes the Tax Authorities of our country are coming up with changes for the benefit of the assesseees. Some of the changes are enumerated below:

Latest GST Updates by CBIC for Companies & Taxpayers

- **Reconciliation statement (GSTR-9C) Form** is available for e-Filing for FY 2020-21 on the GST official web portal
- The Central Board of Indirect Taxes and Customs [CBIC] vide notification No. 32/2021 – Central Tax has extended the due date of **Electronic Verification Code [EVC]** based filing for GSTR-1 and GSTR-3B for companies till **31st Oct 2021**.
- The CBIC vide notification No. 33/2021 – Central Tax has extended the benefit of reduced late fees for filing GSTR-3B in **GST Amnesty Scheme upto 30th Nov 2021**.
- The CBIC vide notification No. 34/2021 – Central Tax has extended Time limit for filing **Revocation Application for Cancellation of GSTIN** for period falling between 01.03.2020 to 31.08.2021 extended to **30th Sept 2021**.
- **Implementation of Rule-59(6) on GST Portal:** As per this rule, a registered person **shall not be allowed to furnish FORM GSTR-1, if he hasnot furnished the return in FORM GSTR-3B for the preceding two months**. If a registered person has opted for **QRMP**, he **shall not be allowed to**

furnish FORM GSTR-1 or use IFF, if he has not furnished the return in FORM GSTR-3B for the preceding tax period.

- *The Goods and Service Tax Network (GSTN) issued the **Advisory on HSN and GSTR-1 Filing.***
- *The Central Board of Indirect Tax and Customs (CBIC) has enabled payment of customs duty on **Express Cargo Clearance System (ECCS)** courier imports through its e-payment gateway for faster and better taxpayer service*

Latest Income Tax Updates by CBDT for Companies & Taxpayers

- *The Central Board of Direct Taxes (CBDT) has extended the date under section 3 of the Vivad se Vishwas Act. The last date for payment of the amount (with additional amount) under Vivad se Vishwas Act has been notified as **31st October, 2021.***
- *The CBDT has again extended the due dates for **Electronic Filing** of various Income Tax Forms under the Income Tax Act, 1961.*
- *The CBDT has invited comments on Framing Rules for Amendments made by the Taxation Laws (Amendment) Act, 2021.*

The Taxation courses are being carried on seamlessly. 94th Tax bulletin had been released and the Taxation portal is being updated time to time with latest amendments in DT & IDT separately.

Feedback is solicited from our readers for any improvement that may be made in the Bulletin.

Jai Hind.

Warm Regards



(Rakesh Bhalla)

CMA Rakesh Bhalla
3rd September 2021



CMA Chittaranjan Chattopadhyay
3rd September 2021

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SPECIAL ACKNOWLEDGEMENT

Mr. Dipayan Roy Chaudhuri

- Graphics & Web Designer

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Articles on the Topics of Direct and Indirect Taxation are invited from readers and authors. Along with the article please share a recent passport-sized photograph, a brief profile and the contact details. The articles should be the author's own original.

Please send the articles to

trd@icmai.in /trd.ad1@icmai.in



CMA Anil Sharma
Practicing Cost Accountant

IBC CODE - 2016 AND GST – PERFECTLY MATCHED?

To ease out the stress of Non-Performing Assets in the country, Government introduced **Insolvency and Bankruptcy Code, 2016** (31 of 2016) from FY 2016 with an idea to speed up the process and bring the distressed assets in the economy. On the other side, in Indirect taxes government came out with one of the biggest reforms by introducing GST Act w.e.f July 2017.

In the process of IB Code -2016, IRP/RP experienced different types of problems while doing compliances under GST and were unable to deal with various provisions of GST Acts. Government and GST Council got many representations from different corners of society as usual and in March 2020, just before COVID-19 pandemic, came out with a notification no 11/2020 dt 21.03.2020 which was a sigh of relief for IRP/RO professionals to speed up the IB process. But the above said notification alone was not sufficient to resolve all issues of IRP/RP professionals.

After gone through the above notifications and having discussions with IRP/RP professionals, we also sent some recommendations to GST council for further improvement. Accordingly, council accepted our recommendations and issued necessary notifications/circulars/clarifications to the facts.

Based on notifications no 11/2020 dt 21.03.2021 and 39/2020 dt 05.05.2020 followed by two *Circulars No 134/04/2020 -GST dt. 23.03.2020 and Circular Dt. 138/08/2020-GST* and for the better understanding of subject matter, we have compiled the following FAQs having match/mismatch between **IB Code-2016** and **GST Acts 2017**.

FAQ: IBC-2016 and GST

Q.1 Which Section of CGST Act, empowers the Center Government to make rules and regulation in respect to functioning of IRP/IP under IBC-2016 to compliance under GST Act.

Answer:

Section 148 of CSGT Act.

Q.2 Under which Notification no CBIC notified the procedure for IRP/RPs to be followed under GST Act.

Answer:

Notification no 11/2020 Dt 21.03.2020 and Notification no 39/2020 dt 05.05.2020.

Q.3 What was the need to issue the Notification no 11/2020?

Answer:

Due to non-payment of government taxes under GST, registration numbers of defaulters/ Corporate Debtors were suspended/ cancelled, resulting after appointment of IRP/RP, these IRP/RP were unable to compliance under GST. Considering all factors this notification with special procedure notified.

Q.4 When role of IRP/RP comes into existence under GST Act?

Answer:

As per IB Code-2016, once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process (hereafter referred to as "CIRP") gets triggered and the management of such entity (Corporate Debtor) and its assets vest with an interim resolution professional (hereafter referred to as "IRP") or resolution professional (hereafter referred to as "RP"). It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal (hereinafter referred to as the "NCLT")

Q.5 Who is Corporate Debtors under IBC-2016 Code?

Answer:

As per Section 3(8) of IBC Code -2016, Corporate Debtors mean a corporate person who owes a debt to any person. In other words, who has to pay money in market including government dues.

Q.6 What procedure with respect to Registration under GST of Corporate Debtor, IRP/RP has to follow after his appointment and after issue of Notification no 11/2020 dt 21.03.2020?

Answer:

As per the notification no 11/2020 dt 21.03.2020 with effect from the date of appointment of IRP/ RP, he will be treated as a distinct person of the corporate debtor, and he shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, **within thirty days** of the appointment of the IRP/ RP.

Where IRP/RP has been appointed prior to the said notification no 11/2020 dt 21.03.2020, he shall apply for registration in all such states where the corporate debtor was registered within 30 days from the issue of this notification. (due to lockdown in the country from March, 2020 till June, 2020 in proviso to the said notification the words "within 30 days of the commencement of this notification i.e 21.03.2020" has been substituted as "*within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later*" - notification no 39/2020 dt 05.05.2020). This new registration shall be effective from the date of his appointment.

Example: If an IRP/RP has been appointed wef 30.06.2019. So he should have applied for new registrations on or before 30.06.2020 apply and all new registrations shall be effective from the date of his appointment i.e 30.06.2019.

Notification no 39/2020 dt 05.05.2020 further states that such class of person does not include the corporate debtors who have already filed their all returns/statements under section 37 and 39 of CGST Act, for the period prior to the appointment of IRP/RP. **Meaning there by, the corporate debtors who have compliance under above said sections need not to obtain new registration under notification no 11/2020.**

Q.7 Is it possible for a corporate debtor having appointed IRP/IP, have another GSTIN with same name and title, products or services or both, premises, HSNs, against same PAN no? In case of PAN, no one can have another PAN no for same entity/person.

Answer:

It is allowed to have separate GSTIN no for same entity for same premises, products, services etc.

Q.8 Which PAN no shall be used to obtain new registration under GST by IRP/IP?

Answer:

Corporate Debtors PAN no. shall be used for new registration. IRP/RP should not use his /her PAN for this registration.

Q.9 Who's DSCs shall be used for filing of registration application and other compliances.

Answer:

IRP/RP or person authorized by him/her shall use his/her DSCs for filing of registration application and other compliance under GST.

Q.10 What is the procedure for filling of Returns has been described under Notification no 11/2020 dt. 21.03.2020 and Notification no 39/2020 dt 05.05.2020?

Answer:

After obtaining new registration, if his appointment is prior to the notification dt 21.03.2020, IRP/RP have to file ,first return of corporate debtor for each such registration obtained till the period of registrations have been granted. He has to make all tax payments and comply other provisions of the ACT.

Q.11 Is IRP/RP liable to file returns of pre-CIRP period?

Answer:

No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date.

Q.12 Is IRP/RP is eligible for ITC for the period prior to his appointment?

Answer:

No.

Q.13 Is IRP/RP is eligible for ITC for the period falls between the date of his appointment and the date of GST registration?

Answer:

Yes, he is eligible to avail ITC for the goods or services received for the period from his appointment as IRP/RP to the date of GST registration based on the invoices carrying GST no of erstwhile dealer (old GST no of Corporate Debtor). The provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the Central Goods and Service Tax Rules, 2017 not applicable in that case.

Q.14 Does registered persons. getting supplies from such class of persons (Corporate Debtor) for the period from the date of appointment of IRP / RP till the date of GST registration as required in the notification or as the case may be, eligible to avail ITC for the said invoices.

Answer:

Yes, eligible subject to the conditions of Chapter V of the said Act and the rules made there under, except the provisions of sub-rule (4) of rule 36 of the said rules.

Q.15 Is IRP/RP is eligible for ITC for the goods and services received after obtaining new GST registration?

Answer:

Yes, subject to all provisions of GST Act.

Q.16 Does IRP/RP is eligible to get refund for cash deposited by him in existing GSTIN after being appointed IRP/RP and getting new registration after notification no 11/2020.

Answer:

Yes, he can get refund for cash deposited in GSTIN no of erstwhile dealer.

Q.16 How are dues under GST for pre-CIRP period be dealt?

Answer:

The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC.

Q.17 Which Corporate Debtor does not require fresh GSTIN after the appointment of IRP/RP?

Answer:

A corporate debtor who has filed all statements/ returns of GST under section 37 and 39 for all the tax periods prior to appointment of IRP/RP does not need fresh GSTIN (Notification no 39/2020 dt 05.05.2020). Meaning there by, IRP/RP will file all returns/statements of period after his appointment in existing GSTIN no.

Q.18 There are cases, where company under old registration has some cash balance in its Electronic Cash Ledger or in Electronic Credit Ledger. How it will be refunded or can be carried forwarded to new GSTIN no?

Answer:

There is no clarification from CBIC in this regard. But from the drafting of the notification no 11/2020 dt 21.03.2020 and 39/2020 dt 05.05.2020, it seems that such cash will not be refunded to RP/RP.

Q.19 Can IRP/RP apply for refund or to carry forward to new registration any refund against Export?

Answer:

There is no clarification from CBIC in this regard. But from the drafting of the notification no 11/2020 dt 21.03.2020 and 39/2020 dt 05.05.2020, it seems that IRP/RP cannot apply for the refund or adjustment in new registration.

Q.20 In a case, where though company has gone for CIRP, but does not have any liability towards GST or does not have any operations. Is there any need to get new registration for NIL returns?

Answer:

Though there is no clarification on it. However, if we go by the case, if company has not filed even NIL GST statements/returns under the law and its registration has been suspended/cancelled, IRP/RP need to apply for new registration.

Q.21 If in any case, IRP/RP completes CIRP with in stipulated time and handed over the company again to promoters or BOD or new promoters take over or NCLT order to withdraw the CIRP, will new registration (post IRP/RP) continue or original registration will be activated or again new registration will be taken?

Answer:

No clarification is issued by CBIC so far. However, for all practical purposes it seems that new registration shall be surrendered by IRP/RP and if:

- company is handed over to previous promoters/BOD than old registration shall be revoked,
- Company is taken over by new promoters than in any case new registration is required,
- the CIRP is withdraw by virtue of the NCAL order, even in that case new registration obtained by the IRP/RP will be surrendered

Q.22 In any case, IRP/RP could not succeed in CIRP and company goes for liquidation, will again new registration will be obtained by liquidator appointed for by NCLT?

Answer:

No clarification by CBIC. However, for all practical purposes and provisions of laws, it seems that yes new registration by a liquidator must be obtained.

Q.23 Is the Notification no 11/2020 dt. 21.03.2020 applicable to the companies already under Liquidation after CIRP?

Answer:

No clarification on it has been issued so far. But it seems that yes, new registrations by the liquidator is to be obtained to do all compliances under the law.

Q.24 What is the fate of pending returns of CD prior to the appointment of IRP/RP?

Answer:

IRP/RP for such companies has been appointed for specific purposes. So, after completion of such objectives either such companies to be handed over to previous promoters/BOD or shall be taken over by new promoters/BOD. The cases shall be dealt accordingly.

Q.25 How IRP/RP will make the payment of GST in time when there is cash crunch during the CIRP period also.

Answer:

Companies goes into IBC when there is cash crunch or having trade payables. So, IRP/RP is appointed to streamline the operations and to improve the liquidity in given period of time.

Q.26 There may be cases, when IRP has been replaced by RP in meeting of creditors within 30 days of appointment of IRP. In such cases RP will apply for registration if IRP not initiated the process. So provisions for time extension to RP must be there.

Answer:

There is no clarification on it yet. But if it happens, the time shall be counted from the date of appointment of RP and not from the date of appointment of IRP.



CMA M Saravana Prabhu

Managing Partner, GST & Indirect Taxation, MSSM Associates

EXTENSION OF LIMITATION BY HON'BLE SC DUE TO COVID 19 – IMPLICATIONS FOR GST REFUNDS

Prologue

COVID – 19, in its many avatars and many waves of attack (comparable only to Mahmud of the Ghaznavid Empire), has left an indelible and in many cases irreparable impact on many of our lives. The World of GST is no exception to this.

On account of the pandemic situation and resultant difficulties that may be faced by litigants in filing their petitions/applications/suits/ appeals/all other proceedings, the Hon'ble Supreme Court vide order dated 23.03.2020 in *Suo Motu W.P (C) 3/2020* had ordered that all limitations (whether condonable or not) under General and Special Laws shall stand extended, w.e.f. 15th March 2020 till further orders. This order will have implications for various proceedings under the GST Law, However, in this article, the author tries to examine the implications of the said Order on Refund **Applications** under GST Law.

Summary of Hon'ble SC's *Suo Moto* Order(s)

The Hon'ble Supreme Court vide order dated 23.03.2020 in *Suo Motu W.P (C) 3/2020* has ordered as follows –

*"This Court has taken **Suo Motocognizance** of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their **petitions/applications/suits/ appeals/all other proceedings** within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State)....*

*To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, **it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.."***

*The Hon'ble Supreme Court further observed as follows – **"..We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that **this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.*****

Thereafter on 8th March, 2021 it was noticed that the country is returning to normalcy and since all the Courts and Tribunals have started functioning either physically or by virtual mode, extension of limitation was regulated and brought to an end. The suo-motu proceedings were, thus, disposed of issuing the following directions –

- “1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.
2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply

Due to the 2nd wave of Covid in India and Surge in cases, the Apex Court vide order dated 27.04.2021 restored the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or whether condonable or not, shall stand extended till further orders as follows -

*“We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, **shall stand extended till further orders.**”*

*We have passed this order in exercise of our powers **under Article 142 read with Article 141 of the Constitution of India.** Hence it shall be a binding order within the meaning of Article 141 on all Courts/ Tribunals and Authorities.”*

Applicability to Refund Matters

Whether the said order will also cover Refund applications u/s 54 of the GST Act r/w Rules 89 / 96 / 96A of the CGST Act, 2017, among other point to be considered.

Sec. 54(1) specifies that, Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, **may make an application** before the expiry of 2 years from the relevant date in such form and manner as may be prescribed. The 2nd Explanation to Sec. 54 defines “Relevant Date” under various situations.

It is important to note that in this context, the Govt. has issued notifications in light of the 2nd wave of COVID and Notification 24/2021 CT (amending Notfn. No. 14/2021 – CT, dt.01.05.2021), which prescribes a blanket relaxation u/s 168A, as under –

*(i) where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under the said Act, which falls during the period from the **15th day of April, 2021 to the 29th day of June, 2021**, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, **shall be extended upto the 30th day of June, 2021**, including for the purposes of –*

- (a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority,*

commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or

- (b) *filing of any appeal, reply or **application** or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above; but, such extension of time shall not be applicable for compliances under certain sections under which refund application is not excluded, and thereby covered by the said Notification*

In this context, one has to appreciate whether when already the Impugned SC order in the same domain, is still in force, where does the above Notfn. No. 24 r/w Notification No 14 of 2021 stand? And is there an apparent conflict between the said notification and the Order of the Hon'ble SC (Interestingly similar notification u/s 168A issued during the 1st Wave of COVID in 2020, but it seems only now the Litigant and the Dept. have woken up to this apparent conflict)

Interestingly, the Press Release of the 43rd GST Council meet (where the above notification was recommended), in Para 3D, remarks as follows –

“Relaxations under section 168A of the CGST Act: Time limit for completion of various actions, by any authority or by any person, under the GST Act, which falls during the period from 15th April, 2021 to 29th June, 2021, to be extended upto 30th June, 2021, subject to some exceptions.

[Wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply]”

It is also information available with the author, that legal opinion obtained by the Commercial Taxes Department in a few states, have categorically addressed this very same point and have opined that the impugned extension order of the Hon'ble SC, would be applicable to the Refund application also.

The Tamil Nadu CTD Dept., in its instructions to its filed formations dated 07.04.2021, in the context of admitting Revocation of time barred Regn. cancellation applications, in Para 6, remarks –

“The Proper Officer being Quasi Judicial Authority and Deputy Commissioner, GST Appeals, Joint Commissioner, GST Appeals, being Judicial Authorities are also bound by the Order of the Supreme Court and hence for the purpose of Revocation of Cancellation of Registraion issued under GST Act, 2017 the following instructions are issued...”

To complicate things further, the Circular No. 157/13/2021-GST [F. NO. CBIC-20006/10/2021], dt. 20-7-2021, has been issued by the CBIC after obtaining a Legal Opinion on the said matter.

The matter has been examined on the basis of the legal opinion received in the matter. The following is observed as per the legal opinion:—

- (i) The extension granted by Hon'ble Supreme Court order applies only to quasi-judicial and judicial matters relating to petitions/applications/suits/appeals/all other proceedings. All other proceedings should be understood in the nature of the earlier used expressions but can be quasi-judicial proceedings. Hon'ble Supreme Court has stepped into to grant extensions only with reference to judicial and quasi-judicial proceedings in the nature of appeals/suits/petitions etc. and has not extended it to every action or proceeding under the CGST Act.
- (ii) For the purpose of counting the period(s) of limitation for filing of appeals before any appellate authority under the GST Law, the limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) 3 of 2020* vide order dated 27th April 2021. Thus, as on date, the Orders of the Hon'ble Supreme Court apply to appeals, reviews, revisions etc., and not to original adjudication.

- (iii) Various Orders and extensions passed by the Hon'ble Supreme Court would apply only to acts and actions which are in nature of judicial, including quasi-judicial exercise of power and discretion. Even under this category, Hon'ble Supreme Court Order, applies only to a lis which needs to be pursued within a time frame fixed by the respective statutes.
 - (iv) Wherever proceedings are pending, judicial or quasi-judicial which requires to be heard and disposed off, cannot come to a standstill by virtue of these extension orders. Those cases need to be adjudicated or disposed off either physically or through the virtual mode based on the prevailing policies and practices besides instructions if any.
 - (v) The following actions such as scrutiny of returns, issuance of summons, search, enquiry or investigations and even consequential arrest in accordance with GST law would not be covered by the judgment of the Hon'ble Supreme Court.
 - (vi) As regards issuance of show cause notice, granting time for replies and passing orders, the present Orders of the Hon'ble Supreme Court may not cover them even though they are quasi-judicial proceedings as the same has only been made applicable to matters relating to petitions/applications/suits, etc.
4. On the basis of the legal opinion, it is hereby clarified that various actions/compliances under GST can be broadly categorised as follows:—
- (a) ***Proceedings that need to be initiated or compliances that need to be done by the taxpayers:— These actions would continue to be governed only by the statutory mechanism and time limit provided/extensions granted under the statute itself.*** Various Orders of the Hon'ble Supreme Court would not apply to the said proceedings/compliances on part of the taxpayers.
 - (b) ***Quasi-Judicial proceedings by tax authorities:*** The tax authorities can continue to hear and dispose off proceedings where they are performing the functions as quasi-judicial authority. This may *inter alia* include ***disposal of application for refund***, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc.
- Similarly, appeals which are filed and are pending, can continue to be heard and disposed off ***and the same will be governed by those extensions of time granted by the statutes or notifications, if any.***
- (c) ***Appeals by taxpayers/tax authorities against any quasi- judicial order:—*** Wherever any appeal is required to be filed before Joint/Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.
5. ***In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27-4-2021 is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws (admittedly, in the view of the Department, Refund applications will also be excluded from the benefit of the impugned SC order)***

Epilogue

The Author, has so far consciously stopped short of giving his opinion on the above matter or has not attempted to interpret the impugned order of the Supreme Court and its interplay with the above notification and circulars issued. But this apparent conflict, throws the following important questions –

1. What is the position of the said circular and notification issued by the Department, in light of the Suo Moto order of the Hon'ble SC.
2. Can a circular issued by the CBIC override or abridge the relief granted by the Impugned Order of the Hon'ble Supreme Court?
3. If not, is the CBIC in violation of Contempt of the Impugned Order of the Hon'ble Supreme Court?
4. Without prejudice to the above, is the impugned Circular in violation of Article 14 of the Constitution of India, since the said Circular purports to discriminate against certain Litigants, by artificially excluding them from the benefit of the impugned SC order?
5. Will the artificial distinction between – (a) Proceedings that need to be initiated or compliances that need to be done by the taxpayers, (b) Quasi-Judicial proceedings by tax authorities and (c) Appeals by taxpayers/tax authorities against any quasi-judicial order, created by the Impugned Circular, stand the test of reasonable classification / intelligible differentia for the purpose of Article 14 of the Constitution?

It is not as though the COVID Pandemic affected different litigants and different proceedings, differentially. No wonder they call nature the great leveller!

Disclaimer:

The above article is informative in nature and does not or does not purport to be complete or comprehensive in its scope of analysis. The above article contains the personal views of the author and the reader is required to verify the correctness of the positions taken, independently, and also obtain appropriate legal counsel, before acting upon the same. The above note is based on the facts, assumptions, information and law as on the date of the note and becomes invalid in case of any change in the same.

RECENT UPDATES IN INDIRECT TAX AND DIRECT TAX

TEAM TRD

Indirect Tax

CBIC has extended date for filing application for revocation of cancellation of registration

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/503>

CBIC has declared Advisory on HSN and GSTR-1 Filing.

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/501>

CBIC has implemented of Rule-59(6) on GST Portal.

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/500>

CBIC has extended FORM GSTR-3B late fee Amnesty Scheme from 31.08.2021 upto 30.11.2021.

For details, please follow- <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-33-central-tax-english-2021.pdf>

Direct Tax

CBDT has extended due dates for electronic filing of various Forms under the Income-tax Act, 1961

For details, please follow-

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/_957/Press-Release-CBDT-extends-due-dates-for-electronic-filing-of-various-Forms-under-the-Income-tax-Act-1961.pdf

CBDT has extended date under section 3 of the Vivad se Vishwas Act

For details, please follow-

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/956/Press-Release_29_8_21.pdf

CBDT has framed of rules for the amendments made by the Taxation Laws (Amendment) Act, 2021

For details, please follow-

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/958/Press-Release-Framing-of-rules-for-the-amendments-made-by-TLA-Act-2021-dated-28-08-2021.pdf>

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST NOTIFICATIONS AND CIRCULARS

Central Tax

Notification No. 32/2021 – Central Tax

Seeks to make seventh amendment (2021) to CGST Rules, 2017

Dated – 29th August, 2021

CBIC has allowed the use of EVC or DSC to file GSTR-1 and GSTR-3B till 31st October, 2021 for Private and public limited companies.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-32-central-tax-english-2021.pdf;jsessionid=C9612CB683F6CF6114118DD17F4EDEE>

Notification No. 33/2021 – Central Tax

Seeks to extend FORM GSTR - 3B late fee Amnesty Scheme from 31.08.2021 upto 30.11.2021

Dated – 29th August, 2021

Government, by **Notification No. 19/2021**, had provided relief to the taxpayers by reducing / waiving late fee for non-furnishing **FORM GSTR-3B** for the tax periods from July, 2017 to April, 2021, if the returns for these tax periods are furnished between 01.06.2021 to 31.08.2021. **The last date to avail benefit of the late fee amnesty scheme, has now been extended from existing 31st August, 2021 to 30th November, 2021.**

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-33-central-tax-english-2021.pdf;jsessionid=B04B3C999458AB3E4A7A550C03EDAB57>

Notification No. 34/2021 – Central Tax

Seeks to extend timelines for filing of application for revocation of cancellation of registration to 30.09.2021, where due date for filing such application falls between 01.03.2020 to 31.08.2021, in cases where registration has been canceled under clause (b) or clause (c) of section 29(2) of the CGST Act

Dated – 29th August, 2021

Government has extended the timelines for filing of application for revocation of cancellation of registration to 30.09.2021, where the due date of filing of application for revocation of cancellation of registration falls between 01.03.2020 to 31.08.2021. The extension would be applicable only in those cases where registrations have been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the CGST Act.

Reference:

Section 29(2)(b): a person paying tax under section 10 has not furnished returns for 3 consecutive tax periods.

Section 29(2)(c): any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of 6 months.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-34-central-tax-english-2021.pdf;jsessionid=0102F22CBFDA8F7F50C6764B52E9A7E2>

CUSTOMS NOTIFICATIONS AND CIRCULARS

Tariff Notification

Notification No. 39/2021- Customs

Seeks to amend notification No. 57/2000-Customs dated 08.05.2000 providing for extension of last date of export by six months

Dated – 19th August, 2021

Central Government has extended the last date of export by six months, for those cases where the last date of export falls between 1st February, 2021 and 30th June, 2021.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs39-2021.pdf;jsessionid=590BE0DF43975E45F1AF5F3A70BE3E38>

Notification No. 40/2021- Customs

Seeks to amend Notification number 34/2021- Customs dated 29.06.2021, for reduction in the BCD on Crude Soya Oil [1507 10 00] from 15% to 7.5%; Crude Sunflower Oil [1512 11 10] from 15% to 7.5%; Refined Soya Oil [1507 90 10] from 45% to 37.5%; Refined Sunflower Oil [1512 19 10] from 45% to 37.5%, from 20th August 2021 till 30th September 2021

Dated – 19th August, 2021

Central Government has made the amendments in the notification No. 34/2021-Customs which was issued on 29th June, 2021 for reduction in the BCD on Crude Soya Oil, Crude Sunflower Oil, Refined Soya Oil, Refined Sunflower Oil from 20th August 2021 till 30th September 2021:

(1)	(2)	(3)	(4)
3	1507 10 00	All goods	7.5%
4	1507 90 10	All goods	37.5%
5	1512 11 10	All goods	7.5%
6	1512 19 10	All goods	37.5%

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs40-2021-new.pdf;jsessionid=511C364E4EEC4557B-C1EE3F5E038E8DC>

Notification No. 41/2021- Customs

Seeks to amend notification No. 28/2021-Customs to extend the exemptions under the said notification up to 30th September, 2021

Dated – 30th August, 2021

Central Government has made the further amendment in the No. 28/2021-Customs, dated 24th April, 2021 (on medical grade Oxygen, Oxygen related equipments and COVID-19 vaccines) through extending upto 30th September, 2021.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs41-2021.pdf;jsessionid=0AC840E7F388C83F6C52F7E3DD05A12C>

Non-Tariff Notification

Notification No. 67/2021-Customs (NT)

Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver

Dated – 13th August, 2021

CBIC has made the following amendments in the notification No. 36/2001-Customs (N.T.) which was issued on 3rd August, 2001. In this notification the following shall be substituted in TABLE-1 and TABLE-2 and TABLE-3

TABLE - 1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1029 (i.e., no change)
2	1511 90 10	RBD Palm Oil	1055 (i.e., no change)
3	1511 90 90	Others – Palm Oil	1042 (i.e., no change)
4	1511 10 00	Crude Palmolein	1061 (i.e., no change)
5	1511 90 20	RBD Palmolein	1064 (i.e., no change)
6	1511 90 90	Others – Palmolein	1063 (i.e., no change)
7	1507 10 00	Crude Soya bean Oil	1228 (i.e., no change)
8	7404 00 22	Brass Scrap (all grades)	5538

TABLE - 2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	563 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50	759 per kilogram (i.e., no change)
3	71	<p>(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92;</p> <p>(ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</p> <p>Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.</p>	759 per kilogram (i.e., no change)
4	71	<p>(i) Gold bars, other than tola bars, bearing manufacturers or refiner's engraved serial number and weight expressed in metric units;</p> <p>(ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</p> <p>Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.</p>	563 per 10 grams

TABLE - 3

SI No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	5149

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt67-2021.pdf>

Notification No. 68/2021-Customs (NT)

Exchange rates Notification

Dated – 19th August, 2021

CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa which is specified in Schedule I and Schedule II and has effected from 20th August, 2021.

SCHEDULE-I

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Australian Dollar	54.80	52.45
Bahraini Dinar	203.55	191.10
Canadian Dollar	59.65	57.55
Chinese Yuan	11.65	11.25
EURO	88.40	85.25
US Dollar	75.20	73.50

SCHEDULE-II

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	68.70	66.25
Korean Won	6.55	6.15

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt68-2021.pdf>

Anti-Dumping Duty

Notification No. 45/2021-Customs (ADD)

Seeks to rescind notification No. 14/2016-Cus(ADD) dated 21st April, 2016 to remove levy of ADD on Barium Carbonate originating in or imported from China PR

Dated – 24th August, 2021

Central Government has revoked the Anti-Dumping Duty imposed on “Barium Carbonate”, falling under tariff item 2836 60 00 of the First Schedule to the said Act, originating in or exported from People’s Republic of China, and imported into India.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd45-2021.pdf;jsessionid=FC675C74DF428851022F-3C0FC9073793>

Notification No. 46/2021-Customs (ADD)

Seeks to extend the Anti-Dumping Duty (ADD) on imports of “Axle for Trailers” originating in or exported from People’s Republic of China, imposed vide Notification No. 54/2016- Customs (ADD), dated 29th November, 2016

Dated – 25th August, 2021

CBIC has extended the Anti-Dumping Duty on imports of ‘Axle for Trailers’ originating in or exported from People’s Republic of China. anti-dumping duty shall remain in force up to and inclusive of the 28th January, 2022, unless revoked, superseded or amended earlier.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd46-2021.pdf;jsessionid=E244038D3B3186FB039D-7968CEF56251>

Notification No. 47/2021-Customs (ADD)

Seeks to levy Anti-Dumping Duty on imports of “Natural Mica based Pearl Industrial Pigments excluding cosmetic grade” originating in or exported from China PR for a period of five years

Dated – 26th August, 2021

CBIC has levied Anti-Dumping Duty on imports of Natural Mica based Pearl Industrial Pigments excluding cosmetic grade originating in or exported from China PR for a period of five years.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd47-2021.pdf;jsessionid=938C14CF09F7262495814909F96513B5>

Notification No. 48/2021-Customs (ADD)

Seeks to amend Notification number 56/2018-Customs(ADD) dated 4th December, 2018, to extend the levy on “uncoated copier paper” from Indonesia & Singapore upto 28th February, 2022

Dated – 27th August, 2021

CBIC has extended Anti-Dumping Duty on imports of ‘Uncoated Copier Paper’ originating in or exported from Indonesia and Singapore upto 28th February, 2022.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd48-2021.pdf;jsessionid=6997668AB0FF2E53C698192847E29E84>

CIRCULARS

Circular No. 19/2021-Customs

Amendment in Circular No.38/2016-Customs with the insertion of a new entry 5(d) to enable Pr. Commissioners/Commissioners of Customs to decide the amount of security required in certain cases of provisional assessments

Dated – 16th August, 2021

CBIC has inserted a new entry 5(d) to enable Pr. Commissioners/Commissioners of Customs to decide the amount of security required in certain cases of provisional assessments.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2021/Circular-No-19-2021.pdf;jsessionid=E836BFA1388ECB3CEB8B48599359C3F0>

Circular No. 19/2021-Customs

De-notification of Inland Container Depots/Container Freight Stations/Air Freight Stations

Dated – 16th August, 2021

CBIC has issued the De-notification of Inland Container Depots/Container Freight Stations/Air Freight Stations. De-notification shall be completed within a maximum of four months from the date of receipt of complete application.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2021/Circular-No-20-2021.pdf;jsessionid=7A83E4C69C72F072E035B8674B3EA58D>

DIRECT TAX

Notification No. 93/2021

Income Tax Amendment (24th Amendment), Rules, 2021

Dated - 18th August, 2021

CBDT has notified Two new Income Tax Rules by issuing Notification, i.e. Rule 12AA. Prescribed person for the purposes of clause (c) and clause (cd) of section 140 and Rule 51B.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_93_2021.pdf

CIRCULARS

Circular No. 16/2021

Extension of time lines for electronic filing of various Forms under the Income-tax Act, 1961

Dated - 29th August, 2021

CBDT has extended due dates for electronic filing of various Forms under the Income-tax Act, 1961.

- 1) **The application for registration or intimation or approval under Section 10(23C), 12A, 35(1i)/(iia)/(ii) or 80G of the Act in Form No. 10A, may filed on or before 31st March, 2022.**
- 2) **The application for registration or approval under Section 10(23C), 12A, or 80G of the Act in Form No. 10AB, may be filed on or before 31st March, 2022;**
- 3) **The Equalization Levy Statement in Form No.1 for the Financial Year 2020 - 2021, may filed on or before 31st December, 2021.**
- 4) **The Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30 June, 2021, may be furnished on or before 30th November, 2021.**
- 5) **The Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30 September, 2021, may be furnished on or before 31st December, 2021.**
- 6) **Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending 30 June, 2021, may be uploaded on or before 30th November, 2021.**
- 7) **Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending 30th September, 2021, may be uploaded on or before 31st December, 2021.**

- 8) **Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th June,2021, may be made on or before 30th November, 2021.**
- 9) **Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th September, 2021, may be made on or before 31st December, 2021.**
- 10) **Intimation to be made by a Pension Fund in respect of each investment (10) made by it in India in Form No. 108BB for the quarter ending on 30th June,2021, may be made on or before 30th November, 20021.**
- 11) **Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on 30 September, 2021, may be made on or before 31th December, 2021.**
- 12) **Intimation by a constituent entity, resident in India, of an international group, the parent entity of which is not resident in India, for the purposes of sub section (1) of section 286 of the Act, in Form No. 3CEAC, required to be made on or before 30h November, 2021 under Rule 10DB of the Rules, may be made on or before 31st December, 2021.**
- 13) **Report by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the purposes of sub-section (2) or subsection (4) of section 286 of the Act, in Form No. 3CEAD, required to be furnished on or before 30h November,2021 under Rule 10DB of the Rules, may be furnished on or before 31st December, 2021.**
- 14) **Intimation on behalf of an international group for the purposes of the proviso to sub-section (4) of section 286 of the Act in Form No. 3CEAE, required to be made on or before 30th November,2021 under Rule 10DB of the Rules, may be made on or before 31st December, 2021.**

For more details, please follow: <https://www.incometaxindia.gov.in/communications/circular/circular-no-16-of-2021.pdf>

PRESS RELEASE

DIRECT TAX

Income Tax Department conducts searches in NCR

17th August, 2021

The Income Tax Department conducted searches on 16.08.2021 on a company engaged in trading of telecom equipment and installation and servicing of these items for various telecom players in India. Searches were conducted at 5 premises, including the corporate office, residence of foreign director, residence of company secretary, accounts person and the cash handler of a foreign subsidiary company in India.

The search revealed that the purchases of the assessee company were entirely from its holding company. Examination of import bills vis-à-vis sale bills show that there is huge gross profit (approximately 30%) on trading of these items, however, the company has been booking huge losses over the years. It is thus evident that losses are being booked by the company through bogus expenses in respect of services provided by it. Few such recipients have been identified in whose case, substantial expenses have been booked over the years. These entities have been found to be non-existent at their addresses. Moreover, the said entities also do not file their Income Tax Returns(ITRs). More such dubious entities are being examined. It is expected that bogus expenses would run into hundreds of crores over the years.

During the search, incriminating evidence has been detected in WhatsApp chats of the CEO, CFO and other key persons indicating illegal payments to telecom companies. WhatsApp chats also reveal payment of commission to a person based in Australia for purchase of shares of a

telecom company in India. These transactions are being examined further. Evidence in the form of electronic data and physical papers, found during the course of the search shows that unaccounted money, running into several crores every year, has been brought back into the books in the form of bogus scrap sales, etc. Incriminating documents found from the electronic data of key persons, including the foreign CFO, show that the employees of the company were engaged in illegal currency exchange from Rupee to RMB. They were also found to be engaged in large scale illegal trade of medicines from India to China.

Examination of books of the assessee company shows large discrepancies. It has been found that the company has failed to deduct TDS on provisions made by them for expenses. During F.Y.s 2014-15 and 2015-16 the company failed to deduct TDS on such provisions amounting to more than Rs. 120 crore. The company has claimed expenses of more than Rs. 100 crore on account of provisions created by it for doubtful debts in F.Y. 2017-18. Similarly, expenses of hundreds of crores have been claimed over the years on account of provision for doubtful debts and provision for doubtful loans and advances. Admissibility of such expenses is being examined.

Further, the Assessee company has also declared only 2 bank accounts in its Income Tax Returns(ITRs) despite having around 12 operative bank accounts. Accountability of transactions in other bank accounts is being examined.

Issue of tax liability of hundreds of crores has been identified so far. Unaccounted cash of more than Rs. 62 lakh has been found at the premises. 3 lockers have also been found during the course of the search, which have been placed under restraint. Search operation is still continuing.

Finance Ministry meeting with Infosys on glitches in e-filing portal of Income Tax Department

23rd August, 2021

The Hon'ble Finance Minister took a meeting with Mr. Salil Parekh, MD & CEO Infosys on 23.08.2021 to convey the deep disappointment and concerns of the Government and the taxpayers about the continuing glitches in the e-filing portal of the Income Tax Department even after two and half months since its launch, which was also delayed. She sought an explanation from Infosys for the repeated issues faced by taxpayers.

Ministry of Finance emphasized that there is a need for putting in more resources and efforts on the part of Infosys so that the much delayed delivery of agreed services is ensured. Mr. Parekh was also sensitized on the difficulties that the taxpayers were facing and the problems that are arising on account of the delays in the functioning of the portal.

Hon'ble Finance Minister demanded that the issues faced by taxpayers on current functionalities of the portal should be resolved by the team by 15th September, 2021 so that taxpayers and professionals can work seamlessly on the portal.

Mr. Parekh explained that he and his team are doing everything to ensure the smooth functioning of the portal. Further, he said, over 750 team members are working on this project and Mr. Pravin Rao COO of Infosys, is personally overseeing this project. He also assured that Infosys is working expeditiously to ensure a glitch-free experience to the taxpayers on the portal.

Income Tax Department conducts searches in Rajkot

27th August, 2021

The Income Tax Department carried out a search and seizure operation on 24.08.2021 on a group based in Rajkot. The group is among Gujarat's prominent real estate builders & developers and

is actively engaged in real estate, construction and land trading businesses in and around Rajkot. More than 40 premises were covered in the operation.

During the course of search and seizure operation many incriminating documents, loose sheets, digital evidences etc. were seized indicating involvement of the group in unaccounted transactions. Substantial evidence of transactions outside the regular books of accounts, unaccounted cash expenses, cash advances received and interest paid in cash, has been found. Evidence of on-money payments in real estate projects-flats, shops and land deals has also been found. Total unaccounted cash receipts in various projects of approximately Rs. 350 crore have been unearthed alongwith corroborative evidences. Further, evidence related to land purchase of approximately Rs. 154 crore has also been found, out of which, Rs. 144 crore was purportedly paid in cash.

Overall, the search and seizure operation has resulted in detection of concealment of income in excess of Rs. 300 crore spread over various assessment years, which is likely to go up. Unaccounted cash of more than Rs. 6.40 crore and jewellery amounting to Rs. 1.70 crore has been seized from different premises. Furthermore, promissory notes to the tune of Rs. 4 crore have also been found and seized. 25 lockers have been found during the course of the search operation which have been put under prohibitory orders. The search operation is still continuing.

Further investigations are in progress.

Income Tax Department conducts searches in Visakhapatnam

27th August, 2021

The Income Tax Department carried out search and seizure operation on 25.08.2021 on a group based in Visakhapatnam at 17 different premises across Andhra Pradesh, Chhattisgarh, Nagpur and Kolkata. The group entities are engaged in extraction of vegetable oils, mining of manganese ore, and manufacturing of ferro alloys.

During the course of the search operation, hand written diaries/documents, loose sheets depicting undisclosed cash transactions were seized. The group is inflating expenditure, indulging in cash sales of oil and under invoicing of slag. Transactions in the form of suppression of sales and inflation of expenditure were unearthed.

Unaccounted cash of Rs. 3.0 crore has been seized so far. In total, the searches have resulted in detecting incriminating evidence relating to undisclosed financial transactions of about Rs. 40 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Maharashtra and Goa

28th August, 2021

The Income Tax Department carried out a search and seizure operation on 25.08.2021 on a group based in Maharashtra and Goa. The group is a prominent steel manufacturer and trader of Pune, Nashik, Ahmednagar and Goa. More than 44 premises were covered in the search operation.

During the course of the search and seizure operation, many incriminating documents, loose papers and digital evidences were seized.

Evidence detected during the search revealed that the group was engaged in fraudulent practice of booking bogus purchases of scrap and sponge iron from various 'fake invoice issuers'. Premises of fake invoice issuers were also covered during the search. Such invoice issuers have admitted that they supplied only bills but no materials and also generated fake e-way bills to show it as genuine purchases and to claim GST input credit. With the active support of GST Authorities, Pune, "Vehicle movement tracking app" was used to identify fake e-way bills. Total bogus purchases identified from these parties, so far, is about Rs.160 crore. The verification is still in progress and quantum of bogus purchases is likely to increase substantially.

Further, shortage of goods to the tune of Rs.3.5 crore and excess stocks of Rs. 4 crore was also found from the premises and the same has

been admitted by the assesseees. Unaccounted investment in property was also unearthed. Unaccounted cash of Rs. 3 crore and jewellery amounting to Rs. 5.20 crore has been seized from different premises. Unaccounted silver articles of 194 Kg valued at about Rs. 1.34 crore have been found during the search and have been accepted and declared as additional income by the assessee.

So far, a total of Rs.175.5 crore of unaccounted income has been unearthed including unaccounted cash and jewellery, shortage and excess of stock and bogus purchases.

The search operation is still continuing and investigations are in progress.

Framing of rules for the amendments made by the Taxation Laws (Amendment) Act, 2021

28th August, 2021

The Taxation Laws (Amendment) Act, 2021 (2021 Act), which received the assent of the President on the 13th August, 2021, has, inter-alia, amended the Income-tax Act, 1961 (Income-tax Act) so as to provide that no tax demand shall be raised in future on the basis of the amendment to section 9 of the Income-tax Act made vide Finance Act, 2012 for any offshore indirect transfer of Indian assets if the transaction was undertaken before 28th May, 2012 (i.e., the date on which the Finance Bill, 2012 received the assent of the President).

The amendment made by 2021 Act also provides that the demand raised for offshore indirect transfer of Indian assets made before 28th May, 2012 (including the validation of demand provided under Section 119 of the Finance Act 2012) shall be nullified on fulfilment of specified conditions such as withdrawal or furnishing of undertaking for withdrawal of pending litigation and furnishing of an undertaking to the effect that no claim for cost, damages, interest, etc. shall be filed and such other conditions are fulfilled as may be prescribed. The amount paid/collected in these cases shall be refunded, without any interest, on fulfilment of the said conditions.

The aim of the amendment made by the 2021 Act is to bring tax certainty and ensure that once specified conditions are fulfilled, the pending Income-tax proceedings shall be withdrawn, demand, if any, raised shall be nullified, and amount, if any, collected shall be refunded to the taxpayer without any interest. To implement the amendment made by 2021 Act, draft rules have been prepared to amend the Income-tax Rules, 1962 which specify the conditions to be fulfilled and the process to be followed to give effect to the amendment made by the 2021 Act.

The draft notification containing the proposed rules is placed in public domain and can be accessed at www.incometaxindia.gov.in.

Suggestions/comments on the draft notification are invited from all stakeholders and the public and can be furnished electronically at the email address ustpl1@nic.in latest by 4th September, 2021.

CBDT extends date under section 3 of the Vivad se Vishwas Act

29th August, 2021

Under The Direct Tax Vivad se Vishwas Act 2020 (hereinafter referred to as “Vivad se Vishwas Act”), the amount payable by the declarant is stated in the table under section 3 of the Vivad se Vishwas Act.

As per the latest notification dated 25th June 2021, the last date of payment of the amount (without any additional amount) has been notified as 31st August 2021. Further the last date for payment of the amount (with additional amount) under Vivad se Vishwas Act has been notified as 31st October, 2021.

Considering the difficulties being faced in issuing and amending Form no 3, which is a prerequisite for making payment by the declarant under Vivad se Vishwas Act, it has been decided to extend the last date of payment of the amount (without any additional amount) to 30th September, 2021. Necessary notification to this effect shall be issued shortly.

It is, however, clarified that there is no proposal to change the last date for payment of the amount (with additional amount) under Vivad se Vishwas Act, which remains as 31st October, 2021.

CBDT extends due dates for electronic filing of various Forms under the Income-tax Act, 1961

29th August, 2021

On consideration of difficulties reported by the taxpayers and other stakeholders in electronic filing of certain Forms under the provisions of the Income-tax Act, 1961 read with Income-tax Rules, 1962 (Rules), Central Board of Direct Taxes (CBDT) has decided to further extend the due dates for electronic filing of such Forms. The further details are as under:

1. The application for registration or intimation or approval under Section 10(23C), 12A, 35(1)(ii)/(ia)/(iii) or 80G of the Act in Form No. 10A required to be filed on or before 30th June, 2021, as extended to 31st August, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be filed on or before 31st March, 2022;
2. The application for registration or approval under Section 10(23C), 12A or 80G of the Act in Form No.10AB, for which the last date for filing falls on or before 28th February, 2022 may be filed on or before 31st March, 2022;
3. The Equalization Levy Statement in Form No.1 for the Financial Year 2020- 21, which was required to be filed on or before 30th June, 2021, as extended to 31st August, 2021 vide Circular No.15 of 2021 dated 03.08.2021, may be filed on or before 31st December, 2021;
4. The Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30th June, 2021, required to be furnished on or before 15th July, 2021 under Rule 37BB of the Rules, as extended to 31st

- August, 2021 vide Circular No.15 of 2021 dated 03.08.2021, may be furnished on or before 30th November, 2021;
5. The Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30th September, 2021, required to be furnished on or before 15th October, 2021 under Rule 37BB of the Rules, may be furnished on or before 31st December, 2021;
 6. Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending 30th June, 2021, which was originally required to be uploaded on or before 15th July, 2021, and subsequently by 31st August, 2021, as per Circular No.12 of 2021 dated 25.06.2021, may be uploaded on or before 30th November, 2021;
 7. Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending 30th September, 2021, which is required to be uploaded on or before 15th October, 2021, may be uploaded on or before 31st December, 2021;
 8. Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th June, 2021, required to be made on or before 31st July, 2021 as per Circular No.15 of 2020 dated 22.07.2020, as extended to 30th September, 2021 vide Circular No.15 of 2021 dated 03.08.2021, may be made on or before 30th November, 2021;
 9. Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th September, 2021, required to be made on or before 31st October, 2021 as per Circular No.15 of 2020 dated 22.07.2020, may be made on or before 31st December, 2021;
 10. Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on 30th June, 2021, required to be made on or before 31st July, 2021 under Rule 2DB of the Rules, as extended to 30th September, 2021 vide Circular No. 15 of 2021 dated 03.08.2021, may be made on or before 30th November, 2021;
 11. Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on 30th September, 2021, required to be made on or before 31st October, 2021 under Rule 2DB of the Rules, may be made on or before 31st December, 2021;
 12. Intimation by a constituent entity, resident in India, of an international group, the parent entity of which is not resident in India, for the purposes of sub-section (1) of section 286 of the Act, in Form No.3CEAC, required to be made on or before 30th November, 2021 under Rule 10DB of the Rules, may be made on or before 31st December, 2021;
 13. Report by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the purposes of sub-section (2) or sub-section (4) of section 286 of the Act, in Form No. 3CEAD, required to be furnished on or before 30th November, 2021 under Rule 10DB of the Rules, may be furnished on or before 31st December, 2021;
 14. Intimation on behalf of an international group for the purposes of the proviso to sub-section (4) of section 286 of the Act in Form No. 3CEAE, required to be made on or before 30th November, 2021 under Rule 10DB of the Rules, may be made on or before 31st December, 2021.
- CBDT Circular No. 16/2021 in F.No.225/49/2021/ITA-II dated 29.08.2021 issued. The said Circular will be available on www.incometaxindia.gov.in.

JUDGEMENTS

INDIRECT TAX

Hiring of Non AC Buses to Company for Transport of Staff is taxable under “Rent-a-cab” Service: The AAR, Maharashtra

Fact of the Case

The applicant, Shailesh Ramsunder Pande is a proprietor of M/s Pooja Vaishnavi School Bus Services entered into a contract with M/s Ratan India Power Limited for the supply of NON AC Buses for transportation of their staff under contract carriage.

M/s. Shailesh Ramsunder Pande (Pooja Vaishnavi School Bus Service) (“the Applicant”) has sought a clarification on Goods and Services Tax (“GST”) applicability on the contract of supplying Non-Air Conditioned (“Non-AC”) Buses and whether exemption is available for stated service under SI No. 15 Heading 9964 of Notification No. 12/2017 – Central Tax (Rate) dated June 28, 2017 (“Services Exemption Notification”) is applicable in the case.

Decision of the Case

The Hon’ble Maharashtra Authority of Advance Ruling (“MAAR”) observed that the Applicant entered into a contract with M/s Ratan India Power Limited (“RIPL”) for transportation of their staff under contract carriage wherein although the ownership of the buses lie with the Applicant, but the buses are strictly operated as per the instructions of RIPL.

Noted, that the recipient of the service is RIPL because consideration of supply by the Applicant is charged from RIPL and not from the passengers. The subject activity in the given case amounts to ‘renting of a motor vehicle’ and shall qualify as a taxable activity under the provisions of the GST Laws.

Further noted, that since the activity is not ‘transportation of passengers’ the provisions as stated under the Services Exemption Notification, hence, exemption on stated service is not available in the instant case. Rather it is under Entry Sr. 10 of Notification No. 11/2017-CT(Rate) dated June 26, 2017, the subject services shall be covered in as much as there is a Rental service of Transport Vehicle.

Held, the impugned service is that of “rent-a-cab” which attracts Integrated Goods and Service Tax (“IGST”) at 5% if Input Tax Credit (“ITC”) of input service in the same line of business has not been taken or IGST at 12% if ITC is availed.

The Maharashtra Authority of Advance Ruling (AAR) ruled that GST is applicable on the hiring of Non-AC buses to Company for Transport of Staff.

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***12% GST payable PVC tufted coir carpet/
Mat: The AAAR, Kerala***

Fact of the Case

The appellant, Eco Wood Private Limited is proposing to get engaged in the manufacture and export of Coir Mats or flooring with Vinyl (PVC) backing.

The appellant had sought for advance ruling in order to get clarity regarding the impugned product. The Advance ruling was sought in respect of the issue whether the process of manufacture (embedding cog yarn into vinyl (PVC) Compound and curing by heating/cooling is “Tutting” Or a process “other than those processes mentioned In Headings 5701 to 5704 of the Customs Tariff and the HSN Explanatory Notes to Chapter 57;

whether “coir mats / matting floor covering with Vinyl (PVC) backing” manufactured by the process of embedding cog yarn into vinyl (PVC) compound and curing by heating / cooling , rightly covered under the description (cod mats. mattings and floor covering; whether ‘coir mats / mailings 7 poor cover’ g with vinyl (PVC) backing’ manufactured by the process of embedding cod yarn into vinyl (PVC) compound and curing by heating /cooling, would merit classification under the Heading 5705 more specifically under CTH 5705 00 49) of Chapter 57 of the 1st Schedule to the Customs Tariff.

Decision of the Case

The Authority for Advance Ruling Kerala ruled that manufacture of PVC Tufted Clair 5039 / M process of embedding cow yarn into PVC ca floor coverings by the process of embedding coir PVC cannot be considered as textile floor coverings of coir covered under HSN 5702, 5703 or 5705. The process undertaken is a tufting process and If any materials are tufted on the textile of coir. which Is used as floor mats or matting.

It will come under the Customs Tariff Head 5703 90 90 and is liable to GST at the rate of 12% as per Entry a SI No, 144 of Schedule II of Notification No. 01/2017-Central Tax (Rate) dated June 28, 2017. PVC Tufted Coir Mats and Matting and matting cannot be considered as coir mats, mattings and floor coverings covered under HSN 5702 or 5705 arid is appropriately classifiable under HSN 5703 90 0 as tufted mats / matting / floor coverings of cow. The PVC Lulled Coir mats/ mattings nor coverings are classifiable under Customs Tariff Heading 5703 90 90 and attract GST at the rate of 12%.

The Coram ruled that PVC tufted coir carpet/Mat is classified under Tariff Heading 5703 90 90 and is liable to GST at the rate of 12% as per SI No. 144 of Schedule II of Notification No. 01/2017-Central Tax (Rate) dated 28-06-2017 as amended.

The Kerala Appellate Authority of Advance Ruling (AAAR) ruled that 12% GST payable PVC tufted coir carpet or Mat.

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GST payable on Amount received as Reimbursement of Discount or Rebate from Castrol: The AAAR, Kerala

Fact of the Case

The appellant, Santhosh Distributors Kottayam is paying tax due as per the value of the invoice issued and availing the Input tax credit of GST shown in the inward invoice received by them from tm Principal Company Castrol or their stockist.

The appellant has sought the advance ruling in respect of the tax liability of the appellant for the transactions mentioned herein and explained as above The appellant is paying the tax due as per invoice value Issued by them and availing the input credit of GST Shown in the inward invoices reached by them from the Principe Company Castrol their stockist. Yet another issue raised was whether the discount provided by the Principal Company to their dealers through the Appellant attracts any tax under the GST laws; whether the amount shown in the Commercial Credit note issued to the Appellant by the Principal Company attracts proportionate reversal of input tax credit. Is there any tax liability under GST laws on the appellant for the amount received as reimbursement of discount or rebate provided by the Principal Company as per written agreement between the Principal Company and their dealers and also an agreement between the principal and distributors?

Decision of the Case

The Kerala AAR ruled that the applicant/ distributor is eligible to avail ITC shown in the inward invoice received by him from the supplier of goods. It is established from the Statement of the applicant that the prices of the products supplied by the applicant is determined by the supplier and the applicant has no control on the

price of-the products, Therefore it is evident that the additional discount given by the supplier through the applicant which is reimbursed to the applicant is to offer a special reduced price by the distributor/ applicant to the customers and hence the amount represent consideration paid by the supplier of goods to the distributors applicant for supply of goods by the distributor to the customer.

Therefore, this additional discount reimbursed by the supplier of goods / principal company the distributor is liable to be added to the consideration payable by the customer to the distributor arriving at the value of supply under Section 15 of the CGST or SGST Act at the hands of the distributors. The supplier of goods issuing the commercial credit notes is not eligible to reduce his original tax liability and hence any recipient will not be liable to reverse the ITC attributable to the commercial credit notes received by him from the supplier. The applicant is liable to pay GST at the applicable rate on the amount received as reimbursement of discount/ rebate from the principal company. Aggrieved of the decision, the appellant has filed the instant appeal before this Appellate authority.

The Coram ruled that the additional discount reimbursed by M/s Castrol, is liable to be added to the consideration payable by the customers or dealers to the appellant. The appellant is liable to pay GST at the applicable rate. "M/s Castrol is issuing commercial credit notes, hence are not eligible to reduce their original tax liability. Thereby the appellant will not be liable to reverse the ITC attributable to the commercial credit notes Issued to them by M/s Castro," the AAAR observed. The Appellate Authority added that the appellant is liable to pay GST at the applicable rate on the amount received as reimbursement of discount or rebate from M/s Castrol.

The Kerala Appellate Authority of Advance Ruling (AAAR) ruled that Goods and Service Tax (GST) is payable on Amount received as reimbursement of discount or rebate from Castrol.

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***5% GST payable on Two or Three-wheeled 'Battery Powered Electric Vehicle' supplied with or without Battery Pack:
The AAR, Odisha***

Fact of the Case

The applicant, M/s Anjali Enterprises is having a plan to manufacture similar battery powered electric vehicles, therefore, they want clarification whether fitting of battery is mandatory in battery powered electric vehicles while selling the same to the dealers for getting the benefit of 5% GST rate applicable for electrically operated vehicles.

The applicant has sought the advance ruling on the issue of whether fitting of battery is mandatory in two & three-wheeled battery powered electric vehicles while selling the same to the dealers for getting the benefit of 5% GST rate applicable for electrically operated vehicles. The applicant has submitted that the only difference between the goods that are supplied with batteries and the ones without batteries is that, battery is not there in the latter case. Otherwise, the goods without batteries are complete in itself to act as an agent of transportation which is propelled by a motor. Once the battery is fitted, the vehicles will start functioning. Thus, such goods fit within the definition of 'Electrically operated vehicles' mentioned in entry 242A of Notification No. 1/2017.

Decision of the Case

The Coram ruled that a two or three-wheeled "battery powered electric vehicle" when supplied with or without battery pack is classifiable under HSN 8703 as an 'electrically operated vehicle' and is taxable at the rate of 5% GST. The AAR noted that the term 'electrically operated vehicle' to mean" vehicles which run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include e-bicycles".

That means it is a type of electric vehicle (EV) that exclusively uses chemical energy stored in rechargeable battery packs, with no secondary

source of propulsion (e.g. hydrogen fuel cell, internal combustion engine, etc.). An Electric Vehicle with a battery pack uses electric motors and motor controllers instead of internal combustion engines (ICEs) for propulsion.

The Odisha Authority of Advance Ruling (AAR) 5% GST is payable on Two or Three-wheeled "battery powered electric vehicle" supplied with or without battery pack.
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Private Coaching's for CMA, CA, CS not an 'Educational Institution', liable to pay GST, Affirms: The AAAR, Kerala

Fact of the Case

The appellant, Logic Management Training Institute is an institute imparting coaching to the students to facilitate them to obtain qualification such as Cost Accountant, Chartered Accountant, Company Secretary, certified Management Accountant, certified Public accountant, Association of Chartered Certified Accountant etc.

The Appellant has filed an appealed against the AAR, Kerala ruling wherein it was held that institutes imparting education to students for becoming Cost Accountancy (CMA), Chartered Accountant (CA), Company Secretary (CS) etc. are not covered under the definition of 'educational institution' in Para 2 (y) of the Notification No. 12/2017 Central Tax (Rate) dated June 28,

2017 which is in respect of Services Exemption Notification.

Decision of the Case

The Coram ruled that the Appellant is not providing any elementary education or pre-school or upto higher secondary level or equivalent, not is it engaged in providing Education as part of approved vocational education course. Further, the Appellant is not issuing any certificate or degree and it is not mandatory for student to taking coaching from institutions like that of Appellant's for becoming CMA, CA, CS etc.

The AAAR held that the Appellant cannot be categorized as 'education institution' and upheld the ruling of AAR, Kerala.

The Appellate Authority clarified that conduct of degree courses by colleges, universities or institutions which lead to grant of qualifications would be covered under the definition of "educational institution", and training given by private coaching institutes would not be covered, as such training does not lead to grant of recognized qualification.

The Kerala Appellate Authority of Advance Ruling (AAAR) ruled that the private coaching's for Cost Accountants (CMA), Chartered Accountants (CA), Company Secretary (CS), etc. not an "Educational Institution", liable to pay GST.
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DIRECT TAX

Assessee can't receive Payments from its Old Sundry Debtors after a gap of Two to Three years

Fact of the Case

1. In the present case M/s.Jaidayal Prannath Kapur awas the assessee who did not extend full cooperation in the reopened assessment proceedings, and ultimately, notice was issued under Section 142(1) of the Act

2. The assessee was called upon to furnish the details of the source of payment of a sum of Rs.60,63,000/- by cash to M/s. Aditya Securities Ltd., and another amount of Rs.9,50,000/- by Demand Draft to the very same company.

3. The assessee was questioned as regards the nature and source of payment, they stated that Rs.98,40,421/- was due from Sundry Debtors as of 31.03.1999.

4. The assessee was requested to furnish the name and address of the Sundry Debtors who gave/settled their amounts by cash with the date and the hearing of the case was postponed.
5. However, the assessee was unable to provide any details and filed an affidavit, which was rejected by the Assessing Officer as baseless.
6. The Assessing Officer rightly drew an adverse inference against the assessee in the absence of any documentary evidence and completed the assessment by order dated 19.12.2007.
7. Aggrieved by the same, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

Decisions of the Case

1. The division bench of Justice T.S. Sivagnanam and Justice Sathi Kumar Sukumara Kurup held that the assessee could not furnish any details regarding the payments received from the Sundry Debtors and that even their names could not be furnished.
2. In the absence of any details, the Tribunal rightly held that it is impossible to believe the theory that the assessee had received the payments from its old Sundry Debtors after a gap of two to three years, and accordingly, the appeal was dismissed.

Merely claiming of lessor 100% Depreciation on Asset can't make the asset as 'previously used' to disqualify the asset from claiming Deduction

Fact of the Case

1. In the instant case the assessee-company, Sundaram Non-Conventional Energy Systems Limited is engaged in the business of generation and distribution of electricity and for the assessment years under consideration
2. They filed their return of income and claimed deduction under Section 80-IA of the Act. The said claim was rejected by the Assessing Officer on the ground that the assessee had leased out the windmills and it amounts

to transfer and the windmills, which were leased out, were previously used by the lessor-company, who had claimed 100% depreciation and therefore, the windmills having been previously used for any purpose, the assessee does not fulfill the conditions stipulated in sub-section (3) of Section 80-IA of the Act.

3. Thus, the two conditions, which are required to be cumulatively fulfilled are that the undertaking should not be formed by splitting up or the reconstruction of a business already in existence.
4. The second condition is that the undertaking is not formed by the transfer to a new business of machinery or plant previously used for any purpose. It is not in dispute that the windmills have been leased out by the assessee-company.

Decisions of the Case

1. The division bench of Justice T.S. Sivagnanam and Justice Sathi Kumar Sukumara Kurup held that a lease transaction would not amount to a transfer and merely because the lessor had claimed 100% depreciation on the said asset cannot make the asset as 'previously used' to disqualify the asset from claiming deduction.
2. The Madras High Court held that, hiring of machineries from sister concern would not amount to transfer to a new business.

Expenditure incurred allowable to Company on Lands purchased from its Directors as substantial profits were earned by company

Fact of the Case

1. The respondent-assessee, M/s. Adityaram Properties (P) Ltd. is a company engaged in Real Estate Development and they filed a return of income for the Assessment Year under consideration, i.e., AY 2007-08, on 14.11.2007, declaring 'NIL' income.
2. Subsequently, the case was selected for scrutiny, and notice under Section 143(2)

was issued. The Assessing Officer found that the assessee had purchased land to the cost of Rs.19.51 Crores and the total cost of the land sold during the year and debited to the profit and loss account was Rs.8,01,61,275/-.

3. The assessee was directed to furnish details of the land purchased by them. On details being furnished, the Assessing Officer came to know that the assessee company had purchased a larger extent of land from its two Directors/shareholders at the rate of Rs.3 Lakhs percent. Ultimately, these lands, which were purchased, were sold to third-party buyers as many as 41 of them.
4. The Assessing Officer held that the assessee company has incurred expenditure in respect of the payment which has been made to the Directors and the expenditure is excessive and unreasonable and therefore, invoked the provisions of Section 40A(2)(b) of the Act and completed the assessment vide order dated 30.10.2009.

Decisions of the Case

1. The division bench of Justice T.S. Sivagnanam and Justice Sathi Kumar Sukumara Kurup ruled that the assessee company benefited out of the said decision and substantial profits were earned by the assessee company. Thus, the Tribunal was right in setting aside the portion of the order passed by the CIT(A) disallowing the sum of Rs.25,000/- percent.
2. The Madras High Court held that expenditure incurred is allowable to the company on lands purchased from its Directors as substantial profits were earned by the company.

Assessee entitled to Carry Forward Depreciation loss beyond 8 Years

Fact of the Case

1. In the present problem the revenue department is the applicant who has filed the appeal under Section 260A of the Income Tax Act, 1961, directed against the order on the file of the Income Tax Appellate Tribunal, Chennai for the assessment year 2006-07.

2. The issue raised was unabsorbed depreciation loss pertaining to the assessment year 1997-98 could be set off against income of the assessment year 2006-07 and is not the finding of the Tribunal directing the Assessing Officer to set off the unabsorbed depreciation pertaining to the assessment year 1997-98 based, especially when the intention of the legislature was not to carry forward the unabsorbed depreciation beyond eight years from the year of computation.

Decisions of the Case

1. The division bench of Justice T.S. Sivagnanam and Justice Sathi Kumar Sukumara Kurup took into consideration the case CIT vs. Sanmar Speciality Chemicals Ltd. wherein it was held that the current year's depreciation is allowed to be set off against the income from the business as well as against the other heads of income and unabsorbed depreciation in carrying forward and become part of the depreciation of the subsequent year and the total depreciation becomes current year's depreciation as per section 32(1) of the Act, which is allowed to be set off against the income under any head of income.
2. The Madras High Court ruled that the assessee is entitled to Carry Forward Depreciation loss beyond 8 Years.

Brought forward Unabsorbed Depreciation shall be treated as Depreciation of the Current Year u/s 32 of the Income Tax Act

Fact of the Case

1. The assessee company was engaged in the business of manufacturing of yarn and fabric, temporarily discontinued the manufacturing operation in the year 2000 due to heavy loss, labour problems and other factors.
2. During the year under consideration, the assessee had declared income from house property from lease of factory premises and submitted before the authorities that the

premises were temporarily given on lease to meet day to day expenses.

3. The Tribunal bench further relied on a catena of decisions wherein it was held that brought forward depreciation had to be treated as current year depreciation under the provisions of section 32(2) of the Act.
4. The Tribunal (supra) also noted that in Assessment Year 2007-08, the CIT(A) allowed the claim of set off in assessee's own case and in Assessment Year 2013-14, the Assessing Officer himself had allowed the said claim

of set off of unabsorbed depreciation against the income from house property and other sources," the Tribunal said.

Decisions of the Case

The Assessing Officer is directed to set off brought forward unabsorbed depreciation as part of current depreciation against the income from house property and income from other source, since the brought forward unabsorbed depreciation was the depreciation of the current year. Thus, grounds of appeal raised by the assessee are allowed."

TAX COMPLIANCE CALENDER AT A GLANCE

GOODS AND SERVICES TAX CALENDAR

Relaxation to Normal Taxpayers in Filing of Monthly Return in Form GSTR-3B		
Tax Period	Class of Taxpayer (Based on AATO)	Due date of filing
August, 2021	> Rs. 5 Cr.	20 th September, 2021

Relaxation in filing of Form GSTR-3B (Voluntary Monthly Taxpayers less than 5 cr)		
Tax Period		Due date of filing
August, 2021	Category A	22 nd September, 2021
August, 2021	Category B	24 th September, 2021

Others Returns		
From	Description	Due Date
GSRT - 1	Monthly	
	August, 2021	20 th September, 2021
GSRT- 5 & 5A	Filed by Non-resident taxable person and OIDAR respectively	
	August, 2021	20 th September, 2021
GSTR - 6	For input Services Distributor who are required to furnish details of invoice on which credit has been received	
	August, 2021	13 th September, 2021
GSTR - 7	Filed by person required to deduct TDS under GST	
	August, 2021	10 th September, 2021
GSTR - 8	E-commerce operator who are required to deduct TDS	
	August, 2021	10 th September, 2021

DIRECT TAX CALENDAR - SEPTEMBER, 2021

7th September, 2021	<ul style="list-style-type: none"> ➤ Due date for deposit of Tax deducted/collected for the month of August, 2021.
14th September, 2021	<ul style="list-style-type: none"> ➤ Due date for issue of TDS Certificate for tax deducted under Section 194-IA, 194-IB, 194M, in the month of July, 2021
15th September 2021	<ul style="list-style-type: none"> ➤ Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2021 has been paid without the production of a challan ➤ Second instalment of advance tax for the assessment year 2022-23 ➤ Due date for furnishing statement in Form No. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of August, 2021
30th September 2021	<ul style="list-style-type: none"> ➤ Due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 31st July, 2021 under sub-section (1) of section 139 of the Act, is extended to 30th September, 2021 ➤ Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA, 194-IB, 194M in the month of August, 2021 ➤ Return of income for the assessment year 2021-22 for all assessee other than (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of Section 5A applies or (d) an assessee who is required to furnish a report under Section 92E. The due date for furnishing of return of income for Assessment Year 2021-22 has been extended from July 31, 2021 to September 30, 2021. ➤ Due date for linking Aadhaar number with PAN has been further extended from June 30, 2021 to September 30, 2021.

COURSES OFFERED BY TAX RESEARCH DEPARTMENT

Eligibility criterion for admission in TRD Courses

- The members of the Institute of Cost Accountants of India
- Other Professionals (CS, CA, MBA, M.Com, Lawyers)
- Executives from Industries and Tax Practitioners
- Students who are either CMA qualified or CMA pursuing

EXISTING COURSES

CERTIFICATE COURSE ON TDS

Course Fee - Rs. 10,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 30 Hours

Mode of Class – Online

CERTIFICATE COURSE ON INCOME TAX RETURN FILLING

Course Fee - Rs. 10,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 30 Hours

Mode of Class – Online

CERTIFICATE COURSE ON GST

Course Fee - Rs. 10,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 72 Hours

Mode of Class – Online

** Special Discount for Corporate*

ADVANCED CERTIFICATE COURSE ON GST

Course Fee - Rs. 14,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 40 Hours

Mode of Class – Online

CRASH COURSE ON GST FOR COLLEGE AND UNIVERSITY

Batch Size – 50 (Minimum)

Eligibility criterion - B.COM/B.B.A pursuing or completed
M.COM/M.B.A pursuing or completed

Course Fee - Rs. 1,000 + 18% GST

Exam Fees - Rs. 200 + 18% GST

Course Duration - 32 Hours

CRASH COURSE ON INCOME TAX FOR COLLEGE AND UNIVERSITY

Batch Size – 50 (Minimum)

Eligibility criterion - B.COM/B.B.A pursuing or completed
M.COM/M.B.A pursuing or completed

Course Fee - Rs. 1,500 + 18% GST

Exam Fees - Rs. 500 + 18% GST

Course Duration - 32 Hours

Admissions open for the courses - <https://eicmai.in/advsec/DelegatesApplicationForm-new.aspx>

NEW COURSES

ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE

Course Fee - Rs. 12,000 + 18% GST [Including Exam Fee]

Duration – 30 Hours

Mode of Class – Online

ADVANCED COURSE ON INCOME TAX ASSESSMENT AND APPEAL

Course Fee - Rs. 12,000 + 18% GST [Including Exam Fee]

Duration – 30 Hours

Mode of Class – Online

For enquiry about courses, mail at – trd@icmai.in

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Impact of GST on Real Estate	Handbook on GST on Service Sector
Insight into Customs - Procedure & Practice	Handbook on Works Contract
Input Tax Credit & In depth Discussion	Handbook on Impact of GST on MSME Sector
Exemptions under the Income Tax Act, 1961	Insight into Assessment including E-Assessment
Taxation on Co-operative Sector	Impact on GST on Education Sector
Guidance Note on GST Annual Return & Audit	Addendum_Guidance Note on GST Annual Return & Audit
Sabka Vishwas-Legacy Dispute Resolution Scheme 2019	An insight to the Direct Tax- Vivad se Vishwas Scheme 2020
Guidance Note on Anti Profiteering	International Taxation and Transfer Pricing
Advance Rulings in GST	Handbook on E-Way Bill
Handbook on Special Economic Zone and Export Oriented Units	Taxation on Works Contract

For E-Publications, Please visit Taxation Portal -
<https://icmai.in/TaxationPortal/>



CMA Chittaranjan Chattopadhyay-
Chairman of Indirect Taxation Committee
and **CMA P. Raju Iyer**-*Vice President of*
The Institute of Cost Accountants of India
along with eminent resource person
CMA Ashok Nawal and **CMA Navneet**
Jain met with **Shri G D Lohani, Joint**
Secretary-TRU- I, Central Board of
Indirect Taxes and Customs and **Shri**
K. C. Varshney, Joint Secretary, Tax
Policy & Legislation (TPL-I) Central
Board of Direct Taxes on 24th August
2021 for discussions and suggestions
on GST and Income Tax. They
appreciated our efforts for preparation
of **Departmental Audit under GST** and
Concept paper on GST in Petroleum
Sector.



TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

1. Successful conduct of Certificate Course on GST.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

Disclaimer:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

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Contact Details:

Tax Research Department
12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364717/ +91 33 40364798/ +91 33 40364711

E-mail: trd@icmai.in



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

Ph: 091-33-2252 1031/34/35/1602/1492

Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Ph: 091-11-24666100